



FILED 10 FEB 25 14 08 PM 2010

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE DISTRICT OF OREGON

3
4 CHRISTIAN JAMES SMITH,) CASE NO: 10-04-PK
5 PLAINTIFF,)

6 V.)

7 DETECTIVE KEVIN HILL,) ORDER TO
8 ET AL.) SHOW CAUSE
9 DEFENDANTS.)

10
11 COMES NOW THE PLAINTIFF TO
12 SHOW CAUSE WHY HIS FILED
13 42 U.S.C. § 1983 COMPLAINT SHOULD
14 NOT BE DISMISSED.

15 DISCUSSION

16 THE PLAINTIFF ACCUSES DEFENDANTS OF
17 UNLAWFUL SEARCHED, SEIZED, AND
18 OR ACCESSED PLAINTIFFS E-MAIL
19 ACCOUNT. THE PLAINTIFF ACCEPTED
20 A PLEA-AGREEMENT TO RESOLVE
21 CASE, BUT IS IN POST-CONVICTION
22 IN THE STATE COURT, FOR THE
23 INEFFECTIVE ASSISTANCE OF
24 COUNSEL, DURING THE SENTENCING

1 PHASE OF THAT CASE.
2 THE PLAINTIFF ASSERTS THAT NOTE
3 NUMBER FOUR WITHIN HECK V.
4 HUMPHREY, 512 U.S. 477 (NOTE 4)
5 COVERS THIS CASE TO THE EXACT
6 CIRCUMSTANCES: "A SUIT UNDER
7 §1983 BY A STATE PRISONER FOR
8 DAMAGES ATTRIBUTABLE TO AN
9 ALLEGEDLY UNREASONABLE SEARCH
10 MAY LIE EVEN IF THE CHALLENGED
11 SEARCHED PRODUCED EVIDENCE THAT
12 WAS INTRODUCED IN A STATE
13 CRIMINAL TRIAL RESULTING IN
14 THE PLAINTIFFS STILL OUTSTANDING
15 CONVICTION, BECAUSE IN VIEW OF
16 DOCTRINES LIKE INDEPENDANT SOURCE
17 AND INEVITABLE DISCOVERY, AND
18 ESPECIALLY HARMLESS ERROR, SUCH
19 AS A §1983 ACTION EVEN IF
20 SUCCESSFUL WOULD NOT NECESSARILY
21 IMPLY THAT THE PLAINTIFFS
22 CONVICTION WAS UNLAWFUL."
23 THE PLAINTIFF AT NO TIME FILED
24 ANY MOTION TO REMOVE THE SAID

1 ACCOUNT DURING THE DURATION OF
2 HIS PRE-TRIAL PERIOD. OPTING
3 INSTEAD TO USE IT IF POSSIBLE
4 TO SHOW POLICE MISCONDUCT, WHILE
5 KEEPING ALL EVIDENCE OF THOSE
6 SEARCHES AVAILABLE FOR DEFENSE
7 PURPOSES.

8 SEARCHES WERE CONDUCTED SIX
9 TIMES PRIOR TO A LEGALLY VALID
10 WARRANT BEING FILED. THE
11 EVENTUAL AFFIDAVIT CLAIMS AN
12 INDEPENDANT SOURCE, WHILE THE
13 AFFIANT-DETECTIVE MICHAEL P.
14 BENNETT FAILS TO DECLARE
15 ACTUAL METHOD OF DISCOVERING
16 PLAINTIFFS ACCOUNT. EVEN WITH
17 ITS DEFICIENCIES, THE PLAINTIFF
18 WOULD NOT EVER LEGALLY ATTACK
19 THE AFFIDAVIT. HE WOULD CONTINUE
20 TO SHOW MISCONDUCT.

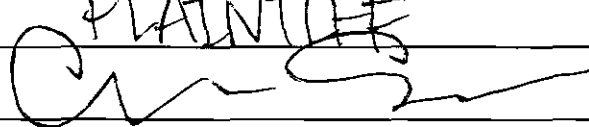
21 IF A DECISION IS ULTIMATELY
22 GRANTED FOR PLAINTIFF, THE
23 LEGALITY OF THOSE ALLEGED SEARCHES
24 WOULD HAVE NO BEARING ON THE

1 PLAINTIFFS STATE CRIMINAL PROCEEDINGS,
2 BECAUSE NEVER HAVING CHALLENGED
3 SAID SEARCHES, THERE WOULD BE NO
4 REASON TO REMOVE OFFICERS
5 MISCONDUCT FROM PLAINTIFFS CASE.
6 THE PLAINTIFF INTENDED TO USE
7 THOSE ILLEGAL ACCESSINGS AGAINST
8 OFFICERS IN TRIAL.

9 CONCLUSION

10 THE PLAINTIFF THEREFORE SHOWS THAT
11 IN NO WAYS ARE THE SEARCHES
12 IN THIS CIVIL CASE LEGALLY GOING
13 TO CHALLENGE HIS CRIMINAL CASE,
14 AND THAT DISCUSSION WITHIN
15 HELL V. HUMPHREY DESCRIBES
16 ALMOST PERFECTLY, THIS CASE. THE
17 PLAINTIFF PLANS THAT THE COURT
18 THEREFORE ALLOWS THIS CASE TO
19 PROCEED ON THOSE GROUNDS

20
21 SIGNED THIS 17TH DAY OF FEBRUARY,
22 2010. CHRISTIAN J. SMITH

23 PLAINTIFF
24 

1 # 12657771 #
2 SNAKE TALKER CORP. INST.
3 777 STANTON BLVD
4 ONTARIO, ORE. 97141
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CERTIFICATE OF SERVICE

CASE NAME: CHRISTIAN J. SMITH v. DETECTIVE KEVIN HILL, ET AL

CASE NUMBER: (if known) 3:10 CV-04-PK

COMES NOW, CHRISTIAN J. SMITH, and certifies the following:

That I am incarcerated by the Oregon Department of Corrections at THE SNAKE
RE-ENTRY CORRECTIONAL FACILITY

That on the 22 day of FEBRUARY, 2010, I personally placed in the
Correctional Institution's mailing service A TRUE COPY of the following:


ORDER TO SHOW CAUSE

I placed the above in a securely enclosed, postage prepaid envelope, to the person(s)
named at the places addressed below:

1. KENNETH S. MONTANA / ATTY. FOR DETECTIVES HILL?
555 LIBERTY ST. S.E. BENNETT
SALEM, ORE. 97301

2. LATHA SMITH (DEFENDANT)
710 BIRCH ST
JUNCTION CITY, ORE. 97448

3. MADEN SUBER
37561 N.W. ALDER
SCIO, ORE. 97401


(Signature)

Print Name CHRISTIAN SMITH
S.I.D. No.: 1265111
777 STANTON BLVD
ONTARIO, ORE. 97141